REMARKS/ARGUMENTS

Claims 1,5,6 and 13-28 remain in this application.

Claims 2 and 10 have been cancelled.

Claims 3,4,7-9,11 and 12 have been withdrawn.

Claims 3,4,7-9,11 and 12 have been withdrawn as the result of an earlier restriction requirement.

In response to the Office Action of **September 4, 2009,** Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

***Rejections under 35 USC 102(b)***

Claims 1, 5, 6, 13-15 and 17-19 stand rejected under 35 U.S.C. 102(b) as being anticipated by Li et al. (5,258,015).

Li et al. disclose a linear fastener comprising a shank member, e.g. 160, a collet member, e.g. 168, and a compression ring, e.g. 162 (see, e.g., Fig. 11 and col. 7, lines 29-57). The collet member has a base end, a top end, an inner engaging surface, and an outer tapered compression surface 171. The compression ring has a base end, a front end, an inner tapered compression surface 164 and an outer surface. The inner tapered compression surface of the compression ring is constructed and arranged to cooperate with the outer tapered compression surface of the collet member. In a gripping position, the compression surfaces cooperate to compress the collet to grip the outer surface of the shank member.

The Applicant's invention provides a fastener system capable of precisely and reproducibly securing multiple components into a single assembly without the need to apply-torque to the assembly and to provide a fastener system capable of providing precise and reproducible linear clamping forces to a shank member. When compared to Li and other traditional threaded fasteners, the Applicant's use of a compression surface allows for very precise tensile loads to be applied to the shank member. The Applicant has amended Claim 1 and 16 to limit the inner engaging surface and outer gripping surface to the specification.

It is respectfully submitted that the Claim distinguishes the Applicant's invention over the Li's reference, Li would not operate as intended by the inclusion of a gripping means on the shank and collet. Li's use of a shank (filament 20 & 160) is for drawing through the tissue (Column 4, line 25-26). Li's filament is for placement through a collet 166 having a central hole 167 to permit passage(column 7, line 29-57). The Applicant's invention requires the use of predefined and preplaced gripping surfaces, such gripping surfaces would not allow passage through tissue as intended by Li. The Applicant's invention is intended to be a precise linear fastener for securing component at a particular position on a shank, not in an adjustable position along the length of a filament as disclosed by Li. Li uses tapers to wedge flaps

inward and tabs are used to prevent separation of the assembly. The dissimilar tapers are visible in Figs. 7 and 11. Li's collet is generally flat cylindrical shape and includes a locking extension. In operation the collet and washer are placed over the filament (shank) and the filament is thereafter tensioned, and the washer is moved into engagement with the collet until the tabs pass through the collet to prevent the washer from separating from the collet.

The Applicant respectfully requests reconsideration of the rejection.

***Rejection under 35 USC 103(a)***

Claims 20-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. (5,258,015).

Li et al. disclose the claimed invention except for explicitly reciting that the device could be formed of materials other than plastic, such as, copper, brass, bronze, aluminum, steel, rubber, etc. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the device of any of numerous known materials, including copper, brass, bronze, aluminum, steel, rubber, etc., e.g. to change the appearance, properties, or cost of the device, since it has been held to be within the general skill of a worker in the art to

select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

It is respectfully submitted that Claims 1 and 16 of the instant invention have been amended and are allowable, claims 20-25 would not depend from an allowable claim.

Claims 16 and 26-28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. (5,258,015) in view of Seyr et al. (2003/0009219)

Li et al. disclose the claimed invention except for the frangible portion. Seyr et al. disclose a fastener 12 having a frangible portion E to facilitate installation and ensure that a predetermined tension is not exceeded (see, e.g., Fig. 1 and paragraph 18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the fastener of Li et al. with a frangible portion, in view of Seyr et al. in order to facilitate installation and ensure that a predetermined tension is not exceeded.

Seyr discloses a ligament fixation device for the fixation of an anterior cruciate ligament. The device includes a first surface spaced from a second surface. The first and second surfaces are joined by a side wall having a plurality of slits extending longitudinally along the side wall. A threaded shaft extends

through the center of the fixation device and engages the first and second surfaces. Rotation of the threaded shaft causes the first and second shaft to come closer together expanding the side wall outward. When a predetermined tension is reached the frangible portion in the threaded shaft breaks.

Neither Li nor the Sayr reference teach or suggest all of the claim limitations of the instant invention. Li does not teach or suggest a groove positioned on a tapered compression surface that cooperates with an adjacently positioned surface to maintain an assembly prior to the final engagement of the components. Sayr does not disclose any type of linear engaging assembly, does not include conjugate tapers and does not grip onto anything internal to the device such as a shank.

In light of all of the above remarks, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness and further contend that a person of ordinary skill in the art, having the references of Li and Sayr in front of him or her, would not have the information and motivation necessary to arrive at Applicants' invention.

Accordingly, Applicants respectfully submit that the claimed invention distinguishes over the prior art and respectfully request that the rejections of claims be withdrawn.

SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested. Should there be any remaining issues which can be resolved via an Examiner's Amendment; the Examiner is urged to call the undersigned in order to expedite the prosecution of this application.

The Commissioner for Patents is hereby authorized to charge any deficiency in any fees due or credit any overpayments in any fees paid on the filing to Deposit Account No. 13-0439.

Respectfully submitted,

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